

Regarding Claim 16, Applicant submits that none of the cited references teaches or suggests transmitting a use right frequency information, for limitation of the use of a literary work, to a customer terminal, as recited.

The system of Kazmierczak utilizes credit registers internal to a user terminal to monitor the use of and charge to the user for accessed information. (Col. 4, lns. 43-51). As stated twice, on page 5 of the present Office Action, Kazmierczak fails to teach or suggest use right frequency information. Kazmierczak also fails to teach or suggest any transmission to a customer terminal of any information relating to a limitation of the use of a literary work.

It is clear from the disclosure of Iwamura that a user's access to encrypted information is based on the availability of funds, indicated by a PPC acceptor 13, to pay for access to the desired information. (Fig. 1; col. 4, ln. 57-col. 5, ln. 22). Iwamura fails to teach or suggest transmitting use right frequency information, for limitation of the use of a literary work, to a customer terminal. Rather, Iwamura indicates that the use of the transmitted information is permitted so long as sufficient funds are obtainable.

The Examiner asserts that Archibald "teaches that it is known in the art to provide use right frequency information for at least one of the number of times of use, the hour of use, and the amount of use of a literary work." (Office Action, p. 5, referring to Archibald, col. 7, lns. 40-47 and col. 8, lns. 40-55). Applicant acknowledges that Archibald teaches keeping track of the use of a digital application by means of a meter module. (Abstract). However, there is no teaching or suggestion in Archibald of use right frequency information for limiting the use of a

literary work or of transmitting any such information to a customer, as recited. In the Background Section, Archibald discusses three methods of preventing software piracy: 1) “‘dongles’ which require a computer executing the software to have an affiliated hardware key” (col. 1, lns. 59-64); 2) a “software floating license manager,” which allows software to be shared on a number of affiliated computers where each of the affiliated computers may access the software any number of times, but only one affiliated computer may access the software at the same time (col. 2, lns. 5-14); 3) a hardware meter which determines whether the computer system on which the software is loaded has an authentic copy of the software (col. 2, lns. 15-21); and 4) the use of a CD on which the software is loaded and which requires a code from a vendor to access the software (col. 2, lns. 22-29). None of these methods teach or suggest use right frequency information for limiting the use of a literary work or of transmitting any such information to a customer.

Further, Archibald specifically describes that these methods, which, like the present invention, limit the distribution of a product, have had limited success and need to be replaced by a method which deemphasizes control of the distribution of software and rather focuses on charging for the use of the information, however it is obtained. (Col. 2, lns. 37-48). As claimed, the present invention specifically recites a “limitation of at least one of a number of times of use, the hour of use, and the amount of use.” Therefore, not only does Archibald fail to teach or suggest the limitations of claim 16, it specifically teaches away from the present invention.

In view of the above, because none of the cited references teaches or suggests transmitting a use right frequency information, for limitation of the use of a literary work, to a

customer terminal, a reasonable combination of the cited references also fails to teach or suggest a use right frequency storage memory, as recited, or a deciphering means which refers to use right frequency information to read out an enciphered literary work, as recited.

Therefore, in view of the above, Applicant submits that Claim 16 is patentable over a reasonable combination of the cited references, and further that Claims 17-20 are patentable at least by virtue of their dependence on Claim 16.

Additionally, the cited combination of references also fails to teach or suggest updating use right frequency information, as recited in Claim 17, or enabling the read out and deciphering of literary work data when a use right frequency is higher than “0” and restricting the play back of literary work data when a use right frequency is “0,” as recited in Claim 18.

Therefore, Applicant respectfully requests that the rejection of Claims 16-20 be reconsidered and withdrawn.

#### **Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. In any points remain at issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

**RESPONSE UNDER 37 C.F.R. § 1.111 . . .**  
U.S. Application No. 09/834,944

**Q64103**

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Laura Moskowitz', is written over a horizontal line.

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CUSTOMER NUMBER

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